

# ***COMMONWEALTH of VIRGINIA***

## ***DEPARTMENT OF ENVIRONMENTAL QUALITY***

PIEDMONT REGIONAL OFFICE

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Preston Bryant  
Secretary of Natural Resources

David K. Paylor  
Director

### **STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION**

#### **ORDER BY CONSENT**

#### **ISSUED TO**

**KAISER ALUMINUM FABRICATED PRODUCTS, LLC**

**Registration Number 50249**

#### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code §10.1-1309 and §10.1-1316, between the State Air Pollution Control Board and Kaiser Aluminum Fabricated Products, LLC, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the Regulations for the Control and Abatement of Air Pollution.

#### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “Board” means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 10.1-1301.
2. “Director” means the Director of the Department of Environmental Quality.
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.

4. "Facility" means the Kaiser Aluminum Fabricated Products, LLC aluminum extruded product manufacturing facility located at 1901 Reymet Road in Chesterfield County, Virginia.
5. "Kaiser" means Kaiser Aluminum Fabricated Products, LLC, a corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
6. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code §10.1-1309.
7. "Order" means this document, also known as a Consent Order.
8. "Permit" means the Title V Operating Permit ("Title V") issued to Kaiser Aluminum Fabricated Products LLC, dated September 26, 2007.
9. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
10. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 Chapters 10 through 80.
11. "VAC" means the Virginia Administrative Code.
12. "Va. Code" means the Code of Virginia (1950), as amended.
13. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq*) of Title 10.1 of the Va. Code.

#### **SECTION C: Findings of Fact and Conclusions of Law**

1. Kaiser owns and operates an aluminum extruded product manufacturing facility located at 1901 Reymet Road in Chesterfield County, Virginia. The Facility is a major stationary source, and its operations are subject to the Permit and the Regulations.
2. Virginia Code § 10.1-1322 of the State Air Pollution Control Law and 9 VAC 5-80-260(A)(1) of the Virginia Regulations require the Facility to abide by the conditions of the issued Permit.
3. On April 11, 2008, Kaiser discovered a number of compliance issues at the Facility as the result of an internal review. All of the compliance issues were the result of a combination of events that occurred at the Facility, which include the following: the Facility's environmental coordinator who was responsible for preparing and submitting the reports left the company in January 2008, the periodic maintenance software used to schedule some of the environmental tasks was updated which caused issues, and a change

in the third party contractor personnel and procedures that resulted in a breach of certain recordkeeping.

4. On June 12, 2008, Department staff received the 2007 Title V Semi-Annual Monitoring Report and the 2007 Title V Annual Compliance Certification ("reports") via e-mail.
5. Kaiser is required by Permit Conditions VI.E.14.b and c, XVIII.C.3, XVIII.D, and 9 VAC 5-80-260(A)(1) to submit these reports to the Department and the Environmental Protection Agency ("EPA") by March 1 of each calendar year.
6. On June 20, 2008, the Department issued Notice of Violation Number 08-06-PRO-401 to Kaiser. The NOV cited the Facility's failure to submit reports in a timely manner.
7. All of the following additional issues were identified upon further review of the reports and resulted from Kaiser's failure to maintain records;
  - a) Failure to properly maintain furnace fuel throughput records from October 2007 through December 2007 and failure to maintain furnace fuel throughput records on site for the most recent five years, as required by Permit condition III.B.4 and 9 VAC 5-80-260(A)(1);
  - b) Failure to maintain records of training of scrap inspectors, furnace operators and failure to operate furnaces in accordance with the operation, maintenance and monitoring plan ("OM&M"), as required by Permit condition VI.B.11.a and c, VI.C.12.a, VI.F.15.a and b, and 9 VAC 5-80-260(A)(1);
  - c) Failure to maintain total charge weight and emission calculations for the secondary aluminum processing unit, failure to perform and record visible inspection of labels on the furnaces, and failure to maintain these records for the most recent five years, as required by Permit condition VI.C.12.b, VI.F.15.a and b, and 9 VAC 5-80-260(A)(1);
  - d) Failure to maintain records to verify demonstration and implementation of the scrap inspection program, as required by Permit condition VI.C.12.d and 9 VAC 5-80-260(A)(1);
  - e) Failure to maintain records to verify that the Facility operated in accordance with MACT Subpart RRR, as required by Permit condition VI.G.16 and 9 VAC 5-80-260(A)(1);

- f) Kaiser can not provide documentation that the scrubber was maintained in proper working order at all times, as required by Permit condition XIII.A.30 and 9 VAC 5-80-260(A)(1);
- g) Failure to perform and record visual inspections on the scrubber and the scrubber flow meter serving the caustic cleaning station and failure to maintain these records on site for the most recent five years, as required by Permit condition XIII.B.33, XIII.B.34, XIII.B.35, and 9 VAC 5-80-260(A)(1);
- h) Kaiser can not provide documentation that the control method removed, destroyed or prevented the discharge of at least 85% of volatile organic compound emissions into the atmosphere, as required by Permit condition XIV.A.38 and 9 VAC 5-80-260(A)(1);
- i) Kaiser can not provide documentation that the degreaser cover was closed whenever parts were not being handled in the cleaner, as required by Permit condition XIV.A.40, XIV.C.44, and 9 VAC 5-80-260(A)(1);
- j) Kaiser can not provide inspection results of the Varsol degreaser to confirm that all of the applicable provisions were being met, as required by Permit condition XIV.B.42, XIV.C.44, and 9 VAC 5-80-260(A)(1);
- k) Failure to maintain records of all emission data and operating parameters for the Varsol degreaser, as required by Permit condition XIV.B.43 and 9 VAC 5-80-260(A)(1);
- l) Kaiser can not provide documentation that visible emissions from the Facility were controlled, as required by Permit condition XV.A.45 and 9 VAC 5-80-260(A)(1);
- m) Kaiser can not provide documentation that only clean scrap was used in the furnaces, as required by Permit condition XV.A.47 and 9 VAC 5-80-260(A)(1);
- n) Failure to maintain records of type and amount of reactive solid fluxing performed at the Facility, as required by Permit condition XV.A.48.e and 9 VAC 5-80-260(A)(1);
- o) Failure to maintain records of metal hazardous air pollution emissions from each furnace, as required by Permit condition XV.A.48.f and 9 VAC 5-80-260(A)(1);
- p) Failure to provide and maintain records of operator training, as required by Permit condition XV.B.50 and 9 VAC 5-80-260(A)(1);

- q) Failure to perform and record visual observations, as required by Permit condition XV.B.51 and 9 VAC 5-80-260(A)(1);
  - r) Failure to maintain records of all monitoring data and support information, as required by Permit condition XVIII.C.1 and 2 and 9 VAC 5-80-260(A)(1);
8. On July 22, 2008, a meeting was held between Department staff and representatives of Kaiser to discuss the NOV. Kaiser explained that the violations were the result of a combination of events that occurred at the Facility, as described in paragraph C.3 above. The Kaiser representatives explained what they planned to do to address the compliance issues at the Facility. The new coordinator has been trained, software has been fixed, and third party contractor personnel have been instructed in new procedures. One of the measures that the Facility is taking to ensure future compliance is the development and implementation of an environmental management system ("EMS"). The Facility stated that they planned to conduct quarterly compliance reviews in the interim of the establishment of the EMS.
  9. On August 29, 2008, Department staff received the 2008 Title V Semi-Annual Monitoring Report for January 1, 2008 through June 30, 2008.
  10. On September 9, 2008, Department staff completed the review of the 2008 Title V Semi-Annual Monitoring Report. The issues identified in paragraph C7 were included in this report as deviations since they were not discovered and/or addressed by Kaiser until April of 2008. These deviations are a continuation of those identified in the previous reports.
  11. On December 8, 2008, the Department requested Kaiser to submit hazardous air pollutant ("HAP") emissions for each furnace at the Facility from January 2007 through November 2008.
  12. On December 11, 2008, the Department received the HAP emissions information as it requested. The HAP emissions were calculated using other available data for the period(s) in which records were missing.
  13. On December 12, 2008, Department staff completed the review of the HAP emissions data and determined that the Facility did not exceed HAP Permit limits from January 2007 through November 2008.
  14. Based on the results of the documentation received on June 12, 2008, the Board concludes that Kaiser has violated the Permit and Va. Code § 10.1-1322 and 9 VAC 5-80-260(A)(1) as noted above.
  15. On March 3, 2009, DEQ received documentation from Kaiser that included the results of the November 2008 quarterly compliance review performed at the Facility. The results of the compliance review identified several compliance issues at the Facility and what the Facility has done to correct those issues. These issues were incorporated in the Facility's

Semi-Annual Monitoring Report and the 2008 Title V Annual Compliance Certification which was also received on March 3, 2009. The Facility also notified DEQ that the casting operations at the Facility have been shut down since January 16, 2009.

16. On March 3, 2009, Department staff received the 2008 Title V Semi-Annual Monitoring Report for July 1, 2008 through December 31, 2008, and the 2008 Title V Annual Compliance Certification.
17. On March 11, 2009, Department staff completed the review of the 2008 Title V Semi-Annual Monitoring Report and the 2008 Title V Annual Compliance Certification. The issues identified in paragraph C7 were included in this report as deviations since they were not discovered and/or addressed by Kaiser until April of 2008. These deviations are a continuation of those identified in the previous reports.

#### **SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1309 and -1316(C), orders Kaiser, and Kaiser voluntarily agrees to perform the actions described in Appendix A of this Order. In addition, the Board orders Kaiser and Kaiser voluntarily agrees, to pay a civil charge of **\$12,699** within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check payable to the "Treasurer of Virginia", delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

Kaiser shall include its Federal Identification Number with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Kaiser, for good cause shown by Kaiser, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Kaiser by DEQ on June 20, 2008. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce

the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, Kaiser admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Kaiser consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Kaiser declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Kaiser to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Kaiser shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Kaiser shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Kaiser shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

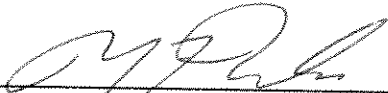
Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Kaiser. Notwithstanding the foregoing, Kaiser agrees to be bound by any compliance date which precedes the effective date of this Order.

This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Kaiser. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Kaiser from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

11. By its signature below, Kaiser Aluminum Fabricated Products, LLC, voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 7<sup>th</sup> day of May, 2009.

  
\_\_\_\_\_  
Richard F. Weeks, Regional Director  
Department of Environmental Quality

Kaiser Aluminum Fabricated Products, LLC, voluntarily agrees to the issuance of this Order.

By: \_\_\_\_\_

Date: \_\_\_\_\_

Commonwealth of Virginia

City/County of CHESTERFIELD

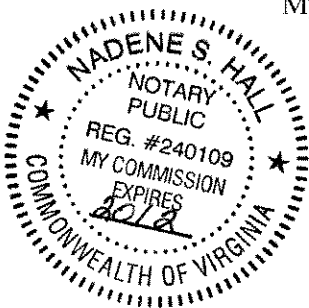
The foregoing document was signed and acknowledged before me this 6<sup>TH</sup> day of  
MAY, 2009, by John SUDDRETH, who is  
(name)

Acting Plant MANG of Kaiser Aluminum Fabricated Products LLC, on behalf of the  
(title)

Corporation.

Nadene S. Hall  
Notary Public

My commission expires: Sept. 30, 2012



#### **APPENDIX A**

1. Beginning with the effective date of this Order, Kaiser must conduct quarterly compliance reviews for a period of 1 year or until implementation of the EMS, whichever occurs first. Kaiser must submit the results of the compliance reviews by the 10<sup>th</sup> day of the month following the close of each quarter.

2. **All requirements of Appendix A of this Order shall be submitted to:**

Jennifer Hoeffner  
Enforcement Specialist, Sr.  
VA DEQ – Piedmont Regional Office  
4949-A Cox Road  
Glen Allen, Virginia 23060  
804-527-5123  
804-527-5106 (fax)  
jhoeffner@deq.virginia.gov